STATE OF MICHIGAN

COURT OF APPEALS

MARY TIPTON, Plaintiff-Appellant,	UNPUBLISHED October 13, 2005
v	No. 262652 Court of Claims
UNIVERSITY OF MICHIGAN, Defendant-Appellee.	LC No. 04-000210-MZ

Before: Talbot, P.J., and White and Wilder, JJ.

PER CURIAM.

Plaintiff appeals as of right from a Court of Claims order granting defendant's motion for summary disposition and dismissing plaintiff's complaint. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

We review the grant or denial of summary disposition de novo to determine if the moving party is entitled to judgment as a matter of law. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

Plaintiff's complaint alleged that she was employed as an operating room aide at the University of Michigan Hospital. She was employed pursuant to an employment agreement and union contract. Defendant discharged her for unsatisfactory attendance. Plaintiff's complaint contained three counts, labeled "Wrongful Discharge" (breach of contract to terminate only for good cause), "Violation of Public Policy" (interference with plaintiff's legitimate expectations of just-cause employment), and "Due Process" (deprivation of plaintiff's property interest in continued employment without a pre-termination hearing or other meaningful opportunity to respond).

Plaintiff argues that the trial court erred in granting summary disposition on the basis that she failed to exhaust her administrative remedies. She argued that her union's inaction in pursuing her grievance showed that "it would be an exercise in futility for the plaintiff to further appeal to the union, since the union has made it clear that it does not intend to pursue her grievance any further."

Plaintiff has inadequately briefed this issue and also fails to cite any authority in support of her argument. "It is axiomatic that where a party fails to brief the merits of an allegation of

error, the issue is deemed abandoned by this Court." *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999). As our Supreme Court has observed:

> It is not enough for an appellant in his brief simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position. The appellant himself must first adequately prime the pump; only then does the appellate well begin to flow. [*Mudge v Macomb Co*, 458 Mich 87, 105; 580 NW2d 845 (1998), quoting *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959).]

Plaintiff also argues that her "claim under the [Family Medical Leave Act, 29 USC 2611 *et seq.*] is not subject to the collective bargaining agreement." We agree with defendant, however, that plaintiff's complaint does not allege a claim under the FMLA. The complaint refers to the FMLA in the background section, but does not include a claim alleging that defendant violated the FMLA. Because plaintiff's complaint does not include a claim under the FMLA, we decline to consider whether a plaintiff whose employment is governed by a collective bargaining agreement may obtain judicial review of a claim under the FMLA without exhausting remedies under that agreement.

Affirmed.

/s/ Michael J. Talbot
/s/ Helene N. White
/s/ Kurtis T. Wilder